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8   **UNITED STATES DISTRICT COURT**

9   **NORTHERN DISTRICT OF CALIFORNIA**

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11 Pacific Information Resources, Inc.,   ) **CASE NO. C07-01918 MMC**
) **[Before the Honorable Maxine M.**
12   Plaintiff,   ) **Chesney, Courtroom 7]**
)   GRANTING APPLICATION
13   vs.   ) **[PROPOSED] ORDER FOR DEFAULT**
) **JUDGMENT BY COURT**
14 MARK MUSSELMAN, individually; AND   )
    DOES 1 through 100, inclusive, WHOSE   ) [Filed in Support of Application for Default
15 IDENTITIES ARE UNKNOWN,   ) Judgment by Court, Memorandum of Points
) and Authorities in Support Thereof,
16   Defendants.   ) Declaration of Konrad L. Trope, Pacific's
) Request for Judicial Notice Declaration of
17 _____   ) Timothy J. Koster, Declaration of Expert
                                                      Hayden Bond, Declaration of Expert Ran
18   Hadas, Ph.D.]

19   Complaint Filing Date: April 4, 2007
                                                      Discovery Cut-Off Date: TBA
20   Trial Date: TBA

21   Hearing Date: November 30, 2007
                                                      Hearing Time: 9:00 a.m.
22   Department: 7

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    _____
    [PROPOSED] ORDER FOR DEFAULT JUDGMENT BY COURT
28   **CASE NO. C07-01918 MMC**
    pacific information resources\pleadings\mark musselman\application for default judgement proposed order final as filed 11 26 07

Upon consideration of Plaintiff's Application for Entry of Default Judgement against Mark Musselman, and the Memorandum of Law and Declarations in support thereof, it is ORDERED that Plaintiff's Application is GRANTED with the court finding as follows:

(1)   Plaintiff Pacific Information Resources, Inc. (Pacific) owns and operates the website located at www.searchsystems.net (the "**WEBSITE**");

(2)   Pacific has registered two valid copyrights concerning the **WEBSITE**. One registration, bearing Registration No. TX 6-275-368 protects the text of the **WEBSITE**, bearing the URL www.searchsystems.net. Plaintiff's other valid copyright registration at issue in this stipulated permanent injunction, bears Registration No. TX 6-275-367 which protects the PHP Hyper Text Processor source code of the **WEBSITE**. ~~True and correct copies of the copyright registrations are attached hereto and incorporated herein as~~ **~~Exhibit "1" (the~~ ~~"COPYRIGHTS");~~**

(3)   Pacific also has a valid registration from the United States Patent and Trademark Office for its service mark consisting of the word mark "search systems" within a design or drawing bearing USPTO Trademark Registration No. 2019094 (the "**SERVICE MARK**"). ~~A true and correct copy of this registration for Plaintiff's registered~~ **~~SERVICE MARK~~** ~~is attached hereto and incorporated herein as Exhibit "2"; and~~

(4)   Pacific has continuously, for the preceding five years, at the very least, continuously and openly used variations of its registered **SERVICE MARK**, but such variations, while not registered, acquired secondary meaning and thus are fully protected under applicable federal and state law as described in Pacific's Complaint on file with the court; that Pacific's registered **SERVICE MARK** and unregistered service marks are collectively hereinafter referred to as the "**SERVICE MARKS**" and that the unregistered but legally valid and protected

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1   **SERVICE MARKS** of Plaintiff include, but are not limited to, the terms:

2   "searchsystems", "searchsystems.net".

3   Consequently, the Court orders that Defendant Mark Musselman, his ~~entire family,~~

4 agents, servants, employees, officers, attorneys, successors, licensees, partners and assigns, and

5 all persons acting in concert with each or any of them, are permanently enjoined from inducing,

6 aiding, assisting, encouraging, enabling, engaging in, causing, materially contributing to, or

7 otherwise facilitating through any means, whether in existence or later created, the unauthorized

8 and/or unlicensed user reproduction, downloading, uploading, distribution of copies of Plaintiff's

9 copyrighted works, including but not limited to any and all content, materials and information

10 contracted in, derived from or otherwise, whether now in existence or later created.

11   The Court further orders that Defendant Mark Musselman, his ~~entire family~~ agents,

12 servants, employees, officers, attorneys, successors, licensees, partners and assigns, and all

13 persons acting in concert with each or any of them, are permanently enjoined reproducing,

14 copying, manufacturing, importing, using, promoting, selling, renting, leasing, distributing, or

15 displaying:

16   (1)   any part of the **WEBSITE** or any website substantially similar to the copyright

17   protected **WEBSITE**;

18   (2)   any part of the **SERVICE MARKS**; or

19   (3)   from authorizing anyone to do the same, or from exercising any other of the

20   exclusive rights of a copyright owner and a service mark owner under the various

21   federal and state statutes listed in Pacific's Complaint.

22   (4)   selling or marketing services in any way that tends to deceive, mislead, or confuse

23   the public into believing that any of the Musselman's websites or other activities

24   were or are in any way sanctioned by or affiliated with Pacific's **WEBSITE;**

25   (5)   diluting the distinctive quality of Pacific's **SERVICE MARKS**; or

26   (6)   otherwise competing unfairly with Pacific or its **WEBSITE;** or

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(7) from authorizing anyone to do the same, or from exercising any other of the exclusive rights of a copyright owner and a service mark owner under the various federal and state statutes listed in Pacific's Complaint.

It is further ORDERED that JUDGMENT in the amount of $798,230.00 is ENTERED against Mark Musselman, specifically, $760,050 in damages, together with attorney fees in the amount of $36,180 and costs in the amount of $2,000.

SO ORDERED

Dated: _November 28____, 2007

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Honorable MAXINE M. CHESNEY
United States District Judge

[PROPOSED] ORDER FOR DEFAULT JUDGMENT BY COURT
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